

CLEARY GOTTlieb STEEN & HAMILTON LLP

Jonathan I. Blackman

Jeffrey A. Rosenthal

Lisa M. Schweitzer

One Liberty Plaza

New York, NY 10006

Telephone: (212) 225-2000

Facsimile: (212) 225-3999

Counsel to Vale S.A.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	Chapter 15
In re:)	
)	Case No. 19-11845 (SHL)
BSG RESOURCES LIMITED (in administration),)	
)	
Debtor in a Foreign Proceeding.)	

**STIPULATION AND ORDER BY AND BETWEEN VALE S.A., DEBTOR AND
FOREIGN REPRESENTATIVES FOR DEBTOR RESOLVING THE APPLICATION
FOR PROVISIONAL RELIEF**

This Stipulation and Order (the “Stipulation”) is made as of June 7, 2019, by and between (a) BSG Resources Limited (“BSGR” or “Debtor”), (b) William Callewaert and Malcolm Cohen appointed as joint administrators (together, the “Foreign Representatives” or “Joint Administrators”) for Debtor in the above-captioned chapter 15 case (this “Chapter 15 Case”); and (c) Vale S.A. (“Vale” and together with Debtor and the Foreign Representatives, the “Parties”), through their respective and duly authorized counsel of record.

RECITALS

WHEREAS, on June 3, 2019, the Foreign Representatives, on behalf of the Debtor, filed a voluntary petition for recognition of a foreign main proceeding and related relief under chapter 15 of title 11 of the United States Code (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) (ECF No. 1);

WHEREAS, on June 3, 2019, the Foreign Representatives, on behalf of the Debtor, filed a *Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding and Related Relief* (ECF No. 5) (the “Verified Petition for Recognition”) which seeks, among other relief, the imposition of the protections of section 362 of the Bankruptcy Code upon the recognition of the Debtor’s foreign insolvency proceeding (the “Guernsey Administration”) as a “foreign main proceeding”;

WHEREAS, on June 3, 2019, the Foreign Representatives, on behalf of Debtor, filed an *Ex Parte Motion for Temporary Restraining Order and Relief* (the “Application for Provisional Relief”) (ECF No. 7) which sought entry of (i) an *ex-parte* temporary restraining order and stay of execution against the Debtor’s assets in the United States, and (ii) an order granting a preliminary injunction until disposition of the Verified Petition for Recognition; **and**

WHEREAS, on June 4, 2019, a “first day” hearing was held in the Bankruptcy Court and certain agreements were reached by and between Debtor and Vale with respect to the Application for Provisional Relief;

WHEREAS, ~~the Bankruptcy Court has scheduled~~ ***the Foreign Representatives have requested that the Bankruptcy Court schedule*** a hearing on the Verified Petition for Recognition for July 10, 2019 at 2:00 p.m. (the “Recognition Hearing”);

NOW THEREFORE, based upon the foregoing recitals, which are incorporated as though fully set forth herein, it is hereby Stipulated and Agreed, and upon Bankruptcy Court approval it shall be ordered, as follows:

1. The Parties’ submissions in *Vale S.A. v. BSG Resources Limited*, Case No. 19-CV-3619 (S.D.N.Y.) (the “Arbitration Enforcement Action”), shall be fully briefed in accordance with Scheduling Order entered by the United States District Court for the Southern District of New York (the “District Court”) in that proceeding (S.D.N.Y. Case No. 19-3619, ECF No. 11).

2. The Parties will advise the Hon. Judge Vernon S. Broderick, presiding over the Arbitration Enforcement Action, of the commencement of the Chapter 15 Case and the existence

of this Stipulation, and request that the District Court not enter an order ruling on the merits of (i) Vale's *Petition for Recognition and Enforcement of a Foreign Arbitration Award* (S.D.N.Y. Case No. 19-3619, ECF No. 1), or (ii) BSGR's *Cross Motion to Dismiss or, in the Alternative, to Adjourn the Decision on the Enforcement of the Award* (S.D.N.Y. Case No. 19-3619, ECF No. 19), until July 10, 2019.

3. If the Recognition Hearing is adjourned or has not concluded by the end of July 10, 2019, the Debtor and Joint Administrators reserve their right to move the Bankruptcy Court, including by oral motion at the Recognition Hearing, to seek interim injunctive relief with regard to the issuance of a decision in the Arbitration Enforcement Action. To the extent that any such motion is made in writing, the Debtor and Joint Administrators shall provide Vale notice thereof. Vale agrees to confer in good faith with regards to any such request *provided that*, Vale's rights to oppose such request are fully preserved.

4. This Stipulation fully resolves the Application for Provisional Relief; *provided however*, that nothing contained in this Stipulation or any order approving the same is intended to waive any rights of any Party to seek injunctive relief, in any fashion and from any court of competent jurisdiction. The Parties reserve all rights and defenses with respect to any further relief which may be sought. Vale reserves all rights and objections with respect to the Verified Petition for Recognition.

5. This Stipulation may be executed in one or more counterparts, including facsimile or electronic counterparts, all of which together shall constitute one and the same instrument.

6. The Bankruptcy Court shall retain jurisdiction to resolve any disputes or controversies arising from this Stipulation.

IN WITNESS WHEREOF, this Stipulation has been executed and delivered as of the date
first above written.

Dated: New York, New York
June 11, 2019

CLEARY GOTTlieb STEEN &
HAMILTON LLP

DUANE MORRIS LLP

By: /s/ Lisa Schweitzer
Jonathan I. Blackman
Jeffrey A. Rosenthal
Lisa M. Schweitzer

By: /s/ Frederick D. Hyman
Frederick D. Hyman
Jarret P. Hitchings

Attorneys for Vale S.A.
One Liberty Plaza
New York, NY 10006
Telephone: (212) 225-2000

*Attorneys for William Callewaert and Malcolm
Cohen in their capacity as Joint Administrators and
Foreign Representatives for the Debtor BSG
Resources Limited (in administration)*

1540 Broadway
New York, NY 10036
Telephone: (212) 692-1000

-and-

222 Delaware Avenue, Ste. 1600
Wilmington, DE 19801
Telephone: (302) 657-4952

[Remainder of page intentionally left blank]

SO ORDERED:

Dated: June 25, 2019

/s/ **Sean H. Lane**

Honorable Sean H. Lane

United States Bankruptcy Judge